

John A. DiLorenzo, Jr., OSB 802040
johndilorenzo@dwt.com
P. Andrew McStay, Jr., OSB 033997
andymcstay@dwt.com
DAVIS WRIGHT TREMAINE LLP
1300 S.W. Fifth Avenue, Suite 2400
Portland, Oregon 97201-5610
Telephone: (503) 241-2300
Facsimile: (503) 778-5299

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
AT PORTLAND

PHILLIP E. OWEN, an individual; OWEN
PROPERTIES LLC, an Oregon limited liability
company; and MICHAEL L. FEVES, an
individual,

Plaintiffs,

v.

CITY OF PORTLAND, an Oregon municipal
corporation,

Defendant.

Case No. 3:17-cv-00221—SI

**DECLARATION OF P. ANDREW
McSTAY, JR. IN SUPPORT OF
PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE**

I, P. Andrew McStay, Jr., declare as follows:

1. I am one of the attorneys for plaintiffs Phillip E. Owen, Owen Properties LLC, and Michael L. Feves. I make this Declaration in support of Plaintiffs' Motion for Temporary Restraining Order and Order to Show Cause. I make this declaration on personal knowledge and, if called as a witness, could and would testify competently to these facts under oath.

2. Attached as Exhibit 1 is a true and correct copy of Portland Ordinance No. 188219, enacted on February 2, 2017.

3. Attached as Exhibit 2 is a true and correct copy of Portland City Code 3.02.04. I obtained the copy by visiting the City of Portland's website at <https://www.portlandoregon.gov/citycode/> on February 9, 2017, and printing the code section.

4. On February 8 and 9, 2017, I reviewed the video stream for the Portland City Council meeting on February 2, 2017, which can be found at the following URL: https://www.youtube.com/watch?v=0QYjObMwIWw&list=PL4m94lCOY10kcH-ufAjNIh1ntElCElA4_&t=19958s&index=5. From approximately 5:23:30 to 5:49:05 on the stream, the Council discussed and voted on various amendments to Ordinance No. 188219. Some of the amendments made certain conceptual changes to the Ordinance without specifying the precise language in which a change would be set forth in the Ordinance.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 10, 2017, at Portland, Oregon.

By: /s/ P. Andrew McStay, Jr.
P. Andrew McStay, Jr.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **DECLARATION OF P. ANDREW McSTAY, JR. IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE** on:

Tracy Reeve, City Attorney
tracy.reeve@portlandoregon.gov
Harry Auerbach, Chief Deputy City Attorney
harry.auerbach@portlandoregon.gov
Rebeca Plaza, Deputy City Attorney
rebeca.plaza@portlandoregon.gov
Office of City Attorney
1221 SW 4th Avenue, Suite 430
Portland, OR 97204
Telephone (503) 823-4047
Facsimile (503) 823-3089

Of Attorneys for Defendant

☒ by using CM/ECF electronic service.

Dated this 10th day of February, 2017.

DAVIS WRIGHT TREMAINE LLP

By /s/ John DiLorenzo, Jr.
John A. DiLorenzo, Jr., OSB #802040
johndilorenzo@dwt.com
P. Andrew McStay, Jr., OSB #033997
andymcstay@dwt.com
Telephone: (503) 241-2300
Facsimile: (503) 778-5299

Attorneys for Plaintiffs